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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA
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RONALD J. ALLISON,

Plaintiff,

v.

UNITED STATES COURTS CLERKS
OFFICE,

Defendants.

Case No.: 2:22-cv-01114-CDS-EJY

Order Adopting Report and
Recommendation of the Magistrate Judge
(ECF No. 2)

On July 19, 2022, United States Magistrate Judge Elayna J. Youshah issued a Report and Recommendation (“R&R”) finding that Plaintiff failed to file an *informa pauperis* application and that the single-page initiating document in this case violated the local rules. ECF No. 2. The R&R recommends that I dismiss with prejudice Plaintiff’s claims because the Clerk’s Office is immune from suit.¹ *Id.* (citing *Polk v. Du*, 2016 WL 1725974, at *5 (D. Nev. Mar. 4, 2016)). The R&R further recommended that I give Plaintiff until August 19, 2022, to show cause as to why he should not be declared a vexatious litigant. *Id.* at 5. Consistent with the local rules, the R&R states that any objections to the R&R must be filed in writing within fourteen days of June 19, 2022, making any objections due on or before August 2, 2022. To date, no objections have been filed. Thus, I adopt the R&R in its entirety.

I. Discussion

“[N]o review is required of a magistrate judge’s report and recommendation unless objections are filed.” *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

¹ The defendants are identified as “the clerks.” ECF No. 1-2.

1 Here, Plaintiff did not object to the R&R.

2 While *de novo* review is not required because Plaintiff failed to file objections, I
3 nevertheless conducted a *de novo* review of the issues set forth in the report and
4 recommendation. See 28 U.S.C. § 636(b)(1). When reviewing the order of a Magistrate Judge, the
5 order should only be set aside if the order is clearly erroneous or contrary to law. Fed. R. Civ. P.
6 72(a); LR IB 3-1(a); 28 U.S.C. § 636(b)(1)(A); *Laxalt v. McClatchy*, 602 F. Supp. 214, 216 (D. Nev.
7 1985). A Magistrate Judge's order is "clearly erroneous" if the court has "a definite and firm
8 conviction that a mistake has been committed." See *United States v. United States Gypsum Co.*, 333
9 U.S. 364, 395, 68 S. Ct. 525, 92 L. Ed. 746 (1948); *Burdick v. Comm'r IRS*, 979 F.2d 1369, 1370 (9th
10 Cir. 1992). "An order is contrary to law when it fails to apply or misapplies relevant statutes,
11 case law or rules of procedure." *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, No. 2:14-cv-00224-
12 RCJ, 2014 U.S. Dist. LEXIS 129489, 2014 WL 4635882, at *1 (D. Nev. Sept. 16, 2014).

13 My review of the R&R reveals it was not clearly erroneous or contrary to the law.
14 Magistrate Judge Youchah properly identified the deficiencies in Plaintiff's initiating documents.
15 Plaintiff submitted a single-page initiating document that in only one paragraph lists the alleged
16 wrongdoing by the U.S. District Court Clerk's Office. ECF No. 2 at 2 (referring to ECF No 1-2 at
17 1). In the second paragraph, Plaintiff alleged conclusory statements that the Clerk's Office is
18 using Local Rules and Nevada Revised Statutes to break federal laws. *Id.* As properly set forth in
19 the R&R, Magistrate Judge Youchah correctly determined that there are no facts to support the
20 overbroad allegations against unidentified persons in the "Clerk's Office," and therefore they are
21 meritless. ECF No. 2 at 2.

22 The recommendation that Plaintiff should have to show cause why he should not be
23 deemed a vexatious litigant is supported by the record. The All Writs Act, set forth at 28 U.S.C.
24 § 1651(a), provides district courts with the inherent power to enter pre-filing orders against

vexatious litigants. *Harris v. Mangum*, 863 F.3d 1133, 1143 (9th Cir. 2017) (citing *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007)). The Ninth Circuit has outlined the following four factors for district courts to examine before deeming a litigant “vexatious,” and entering any pre-filing orders: (1) the litigant must be given notice and a chance to be heard; (2) the district court must compile “an adequate record for review”; (3) the district court must make substantive findings about the frivolous or harassing nature of the plaintiff’s litigation; and (4) the vexatious litigant order “must be narrowly tailored to closely fit the specific vice encountered.” *Id.* (citing *De Long*, 912 F.2d at 1147). “The record supporting such an order ‘needs to show, in some manner, that the litigant’s activities were numerous or abusive.’” *Harris*, 863 F.3d at 1143 (citing *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990)). A pre-filing order is only appropriate “after a cautious review of the pertinent circumstances.” *Molski*, 500 F.3d at 1057.

13 The R&R identifies 123 lawsuits filed by Plaintiff in the United States District Court for
14 the District of Nevada. ECF No. 2 at Exhibit 1 (compiling list of cases). Of those 123 actions, the
15 Plaintiff was allowed to proceed in one case. *Id.* at 4 n.1. Like this case, Plaintiff's prior cases were
16 filed against entities and individuals that could not proceed as a matter of law. *See id.* at 3-4
17 (discussing prior cases and frivolous or meritless claims set forth therein). The endless filings,
18 some of which (like this case) do not comply with the local rules² in even bringing the action,
19 suggest that Plaintiff does not have a good faith basis for bringing the cases at all.

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²⁴ ² The R&R states there is an excess of 50 occasions where Plaintiff was provided instructions on filing the *in forma pauperis* application. ECF No. 2 at 4.

II. Conclusion

For the reasons set forth in the Order,

3 IT IS THEREFORE ORDERED that the Magistrate Judge Youchah's Report and
4 Recommendation (ECF No. 2) is ADOPTED in its entirety.

IT IS FURTHER ORDERED that, as set forth in this order, the claim set forth in the initiating documents is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff shall show cause as to why he should not be deemed a vexatious litigant under the All Writs Act, 28 U.S.C. § 1651(a), for the reasons detailed herein, and in the Report and Recommendation (ECF No. 2). Plaintiff shall submit his response to this Order to Show Cause **no later than August 19, 2022**.

IT IS FURTHER ORDERED that the list of Plaintiff's prior cases (ECF No. 2 at Exhibit 1) is incorporated in this Order as if fully set forth herein.

13 DATED this 3rd day of August, 2022.


Cristina D. Silva
United States District Court Judge